

CIVIL SERVICE COMMISSION MINUTES

July 7, 1999

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 310 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gloria Valencia-Cothran
Mary Gwen Brummitt
Gordon Austin
Sigrid Pate

Absent was:

Roy Dixon

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Arne Hansen, Deputy County Counsel
Joy Kutzke, Reporting

CIVIL SERVICE COMMISSION MINUTES
July 7, 1999

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
6,7,8	11		4,5

COMMENTS Motion by Brummitt to approve all items not held for discussion; seconded by Austin. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Valencia-Cothran: Dung Tran, S.E.I.U. Local 2028, on behalf of **Bessie Cottingham** appealing an Order of Removal from the Health and Human Services Agency.

B. Commissioner Austin: **Melvin Taylor** appealing on Order of Demotion from the Health and Human Services Agency.

MINUTES

1. Approval of the Minutes of the regular meeting of June 16, 1999.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Pate: Stewart Kocivar, S.E.I.U. Local 535, on behalf of **Kayte Barnhill** from an Order of Removal from the Health and Human Services Agency.

Confirmed.

3. Everett Bobbitt, Esq., requesting a Rule VII hearing on behalf of Deputy **James Parks** regarding his reassignment by the Sheriff's Department.

RECOMMENDATION: Assign a Commissioner to conduct a prehearing conference to determine if the reassignment of Deputy Parks was a form of discipline.

Staff recommendation approved. Commissioner Austin assigned as hearing officer.

WITHDRAWALS

4. Commissioner Valencia-Cothran: David A. Rentto, Esq., on behalf of **Daniel Loftin** appealing an Order of Suspension from the Department of Public Works.

Withdrawn.

5. Commissioner Valencia-Cothran: Joseph Patrico, Esq., on behalf of **Donald Holt** appealing an Order of Suspension from the Department of Public Works.

Withdrawn.

DISCIPLINARY FINDINGS

6. Commissioner Valencia-Cothran: Dung Tran, S.E.I.U. Local 2028, on behalf of **Bessie Cottingham** appealing an Order of Removal from the Health and Human Services Agency (HHSA).

FINDINGS AND RECOMMENDATION:

Employee was charged with Cause One - discourteous treatment of the public (shouted at and was rude to patient(s)); Cause Two - inefficiency (excessive absenteeism and tardiness); Cause Three - absent without leave; Cause Four - insubordination; Cause Five - failure of good behavior; Cause Six - acts incompatible with the public service; and Cause Seven - conduct unbecoming an employee of the County. Employee has been employed by HHSA for approximately 17 years. Employee was issued a proposed Order of Removal for the above-stated reasons. As a result of the Skelly conference, HHSA placed Employee on a 90-day performance improvement plan(PIP). This hearing officer determined that Employee substantially complied with the PIP, and therefore, HHSA is bound by its terms. It is unclear to this hearing officer as to how the PIP relates to the proposed Order of Removal and the Final Order of Removal since Civil Service Rule VII does not provide for a PIP during this period of time. It is concluded that Employee is not guilty of Cause One and is guilty of Causes Two, Three, Four, Five, Six & Seven. It is therefore recommended that: (1) the Order of Removal be reduced to a ninety calendar-day suspension without pay; (2) Employee will be awarded back pay, benefits, and interest from the date of termination until the date of the Commission's decision, minus any wages she received from outside employment, minus the ninety calendar-day suspension referred to above, and minus 37 calendar days from May 10, 1999 to June 16, 1999; and (3) that the proposed decision shall become

effective upon the date of approval by the Civil Service Commission and that the Commission approve and file this report.

Motion by Valencia-Cothran to approved Findings and Recommendations; seconded by Austin. Carried.

7. Commissioner Austin: **Melvin Taylor** appealing on Order of Demotion from the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - incompetency (failure to timely and properly communicate with clients); Cause II - inefficiency; Cause III - conduct unbecoming an officer or employee of the County; Cause IV - acts incompatible with or inimical to the public service. Employee has been employed by the County for approximately nine years. He received satisfactory manager performance appraisals as a Social Services Administrator III (SSA III) from 1992 through 1997. Subsequently, evidence was presented at the Commission hearing which demonstrated a pattern of Employee's failure to take responsibility for the timely and adequate completion of certain tasks. This hearing officer concludes that Employee is a valuable and experienced asset to HHSA. However, his actions and inactions necessitate detailed direction and excessive supervision. Employee is encouraged to remain motivated in order to be considered in the future for the classification of SSA III. Employee is guilty of Causes I, II, III and IV. It is therefore recommended that: (1) the Order of Demotion and Charges be affirmed; and (2) the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Austin to approve Findings and Recommendations; seconded by Pate. Carried.

SELECTION PROCESS FINDINGS/COMPLAINTS

Findings

8. Commissioner Austin: **Mandana B. Beheshti** applicant, appealing the removal of her name from the Drafting Technician II employment list by the Department of Human Resources.

FINDINGS AND RECOMMENDATION:

Ms. Beheshti successfully completed the exam and interview process and her name was placed on the Drafting Technician II employment list. She subsequently received an offer of employment by the Department of Public Works. As a matter of routine procedure, the offer of employment was conditional upon her passing a pre-employment physical and drug screening test. The results of Ms. Beheshti's drug screening proved positive for marijuana metabolites (THC). Ms. Beheshti's appeal was based on her inadvertent ingestion of THC while in attendance at a Persian New Year celebration wherein some of the foods were prepared with various herbs. The County of San

Diego has a policy which states that failure to successfully pass a drug test deems an applicant disqualified. This hearing officer concludes that Ms. Beheshti failed to provide sufficient evidence to prove that the positive drug screen test result was caused by inadvertent ingestion of a banned substance. This conclusion does not mean that this hearing officer has determined that applicant intentionally consumed the banned substance. It is acknowledged that proving inadvertent ingestion of the substance is difficult. Ms. Beheshti is encouraged to reapply for County employment in the future. It is therefore recommended that: (1) Appellant's appeal be denied; and (2) this proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Austin to approve Findings and Recommendations; seconded by Pate. Carried.

9. **Greg Dwight** appeal of removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify item No. 9. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Ratified.

Complaints

10. **Sally Hanks**, Social Worker III, Health and Human Services Agency, appealing the removal of her name by DHR from the Aging Program Specialist II employment list.

RECOMMENDATION: Deny request.

Staff recommendation approved.

INVESTIGATIONS

11. Stewart Kocivar, S.E.I.U. Local 535, on behalf of **Lloyd Devoe**, Protective Services Worker I, Health and Human Services Agency, requesting a Rule XI investigation to determine the appropriate disposition of documents filed in Mr. Devoe's HHSA's personnel file.

RECOMMENDATION: Continue to next CSC agenda pending input from HHSA.

Continued.

OTHER MATTERS

Performance Appraisals

12. **Robert White**, Custodian, Health and Human Services Agency requesting the sealing of his performance appraisal for the period February 6, 1998 to February 6, 1999.

RECOMMENDATION: Grant request.

Staff recommendation approved.

Extension of Temporary Appointments

13. Public Works

1 Senior Systems Analyst (Alice Weed)

RECOMMENDATION: Ratify item No. 13.

Ratified.

14. Ratification of Richard C. Ostrup, M.D. as an additional name to the list of medical providers to be used for fitness for duty evaluations at the request of the Department of Human Resources.

RECOMMENDATION: Ratify provider.

Ratified.

15. Public Input.

ADJOURNMENT: 3:25 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE JULY 21, 1999.